

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOUGLAS CORNELL JACKSON,

Plaintiff,

v.

UNKNOWN SCHAFER, et al.,

Defendants.

Case No. 1:22-cv-1137

HON. JANE M. BECKERING

OPINION AND ORDER

Plaintiff Douglas Cornell Jackson (“Plaintiff”) filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983, alleging that Michigan Department of Corrections (MDOC) Officers Brandon Schafer and Marcus Ledesma (“Defendants”) subjected him to excessive force on November 11, 2022. Defendants filed a motion for summary judgment, arguing that Plaintiff failed to properly exhaust his administrative remedies for the claims against them. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant in part and deny in part the motion. The matter is presently before the Court on Plaintiff’s objections to the Report and Recommendation, to which Defendants filed a response. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

The Magistrate Judge concluded that Plaintiff's November 11, 2022 request for a Step I grievance form, in which Plaintiff alleged "only that Defendant Schafer assaulted him," was sufficient to exhaust his claim against Defendant Schafer but not against Defendant Ledesma (R&R, ECF No. 37 at PageID.528, citing Request, ECF No. 34 at PageID.515).

In support of his claim of error by the Magistrate Judge, Plaintiff argues that he provided sufficient notice of his claim against Defendant Ledesma because Plaintiff sent a kite on November 18, 2022 that referenced Ledesma (Pl. Obj., ECF No. 39 at PageID.536–537, referencing Pl. Ex. 1, ECF No. 39-1). Plaintiff also argues that the grievance coordinator intentionally thwarted him from exhausting his administrative remedies by denying his November 11, 2022 request for grievance form "to prevent proper ... identification of Defendant Ledesma's aiding and abetting Defendant Schafer's unjustified assault on Jackson" (*id.* at PageID.537–538).

Plaintiff's arguments fail to demonstrate any factual or legal error by the Magistrate Judge. As Defendants point out in their response, kites do not exhaust administrative remedies (ECF No. 41 at PageID.545–546). And Plaintiff was not "thwarted" from identifying Defendant Ledesma. Plaintiff's November 11, 2022 request, which indicates that he spoke with Defendant Ledesma about the alleged excessive force, evidences Plaintiff's knowledge about Defendant Ledesma's identity and involvement. *See* Request, ECF No. 34 at PageID.515. Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court.

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 39) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 37) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 27) is GRANTED IN PART and DENIED IN PART; specifically, Plaintiff's claim against Defendant Ledesma is DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies, and Defendant Ledesma is TERMINATED. Plaintiff's claim against Defendant Schafer proceeds.

Dated: June 14, 2024

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge